

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERTO CRUZ,	§	
	§	No. 63, 2010
Defendant Below,	§	
Appellant,	§	
	§	Court Below: Superior Court
v.	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	
	§	Cr. No. 0708039250
Plaintiff Below,	§	
Appellee.	§	

Submitted: July 28, 2010
Decided: August 12, 2010

Before **BERGER, JACOBS,** and **RIDGELY**, Justices.

ORDER

This 12th day of August, 2010, on consideration of the briefs of the parties, it appears to the Court that:

1) Roberto Cruz appeals the denial of his motion to withdraw his guilty plea. He argues that his plea was not knowing and voluntary because he did not have a translator during the plea colloquy. We find no merit to this appeal and affirm.

2) In 2009, Cruz faced two sets of charges, which included criminal impersonation, possession of narcotics, trafficking in cocaine, third degree assault, and two counts of endangering the welfare of a child. He reached a plea bargain and, on

April 6, 2009, he pled guilty to trafficking in cocaine and possession of heroin. Two weeks later, Cruz filed a *pro se* motion to withdraw his plea, claiming that he was coerced and threatened. On June 9, 2009, without having conducted an evidentiary hearing, the Superior Court denied the motion.

3) In November 2009, Cruz moved for reconsideration of his motion to withdraw, alleging for the first time that he does not speak English. The Superior Court conducted an evidentiary hearing in January 2010. Cruz testified, with an interpreter, that a friend wrote the letters he sent to the court, and that he simply copied what the friend wrote so that the letters would be in his handwriting. Cruz also testified that, although he spoke English with the judge during the initial plea colloquy, he did not understand everything. The Presentence Officer, who interviewed Cruz while preparing the Presentence Report, testified that he had no trouble communicating with Cruz in English. During the interview, Cruz never said he did not understand and he did not ask for an interpreter.

4) The Superior Court denied Cruz's motion for reconsideration from the bench at the conclusion of the hearing. The trial court noted that the motion was untimely; that Cruz's initial letters to the court never mentioned a language problem; and that both the Presentence Officer and the judge who accepted Cruz's plea were able to communicate with Cruz in English without any apparent difficulty. Cruz contends that

the decision should be reversed because he is unable to understand English. The trial court found, as a matter of fact, that he could, and we find no abuse of discretion.¹

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

¹*Cf. Chao v. State*, 604 A.2d 1351, 1362 (Del. 1992).